



## Ohio Administrative Code Rule 3307-7-01 Guardianship.

Effective: May 3, 2018

---

(A) As used herein, "recipient" shall mean any person who is eligible to receive a payment or benefit under Chapter 3307. of the Revised Code.

(B) Election of or payment of benefits or other monies shall be by and through a duly appointed guardian of the estate or other person specified by court order if:

(1) A recipient is under the age of eighteen and is not in the custody and care of a natural or adoptive parent; or

(2) A recipient is age eighteen or older, but has been adjudicated incompetent by a court with jurisdiction over the recipient; or

(3) A recipient is age eighteen or older and has been determined to qualify for benefits under section 3307.66 of the Revised Code as a result of physical or mental incompetency determined by a doctor of medicine or osteopathic medicine appointed by the retirement board and the recipient's attending doctor of medicine or osteopathic medicine determines the recipient is incapable of handling his or her financial matters because of the physical or mental incompetency. Such determination shall be made in accordance with section 3307.66 of the Revised Code and the procedures set forth in paragraph (H) of rule 3307:1-8-01 of the Administrative Code.

(C) Notwithstanding paragraph (B) of this rule, guardianship will not be required for payment of benefits or other monies due a recipient described in paragraph (B)(1) or paragraph (B)(2) of this rule if documentation has been provided to the retirement system to support one of the following:

(1) Guardianship has been terminated pursuant to section 2111.05 of the Revised Code or its counterpart under the laws of the state with jurisdiction over the recipient, and the court has authorized payment to a person or entity designated by the court; or



(2) A court has authorized payments due to a recipient under the age of eighteen pursuant to section 2111.131 of the Revised Code or its counterpart under the laws of the state with jurisdiction over the recipient to a person or entity designated by the court; or

(3) A court has authorized payments to a representative payee designated by the court, pursuant to some other section of the Revised Code or the laws of the state with jurisdiction over the benefit recipient.

(4) If a guardian, permanent custodian or authorized payee has not been appointed by the courts for a minor child who has no natural guardian or whose natural guardian cannot be located, monthly benefits may be paid to the person in whose custody a minor child resides, provided:

(a) If the natural guardian cannot be located, an application for payment to the person in whose custody a minor child resides must be supported by affidavits from that person and at least two other persons, at least one of whom shall be unrelated to the applicant, attesting that the whereabouts of the natural guardian are unknown.

(b) If a court has awarded temporary custody, monthly benefits will be delayed for a period up to three months following the date of death of the member. If no permanent custody, guardianship or payee order has been made within that period and if no court order directs otherwise, payment may be made to the person who has temporary custody.

(5) For lump sum withdrawals authorized by Chapter 3307. of the Revised Code payable to members, superannuates or other system retirants as defined in section 3307.35 of the Revised Code, including member account withdrawals pursuant to section 3307.56 of the Revised Code and withdrawals pursuant to section 3307.352 of the Revised Code:

(a) With a value of ten thousand dollars or more an application must be signed by the member or by the superannuate or other system retirant, or by the guardian of the estate of the member, superannuate or other system retirant with approval of the court that created the guardianship; or

(b) With a value of less than ten thousand dollars an application must be signed by the member or by the superannuate or other system retirant, or by an attorney in fact who has authority pursuant to a



power of attorney to execute financial transactions with the retirement system on behalf of the member, superannuate or other system retirant.

(6) For lump sum payments authorized by Chapter 3307. of the Revised Code payable to beneficiaries and qualified survivors as defined in sections 3307.562, 3307.60 and 3306.66 of the Revised Code:

(a) With a value of ten thousand dollars or more, or of any value if payment is pursuant to division (D) of section 3307.60 of the Revised Code, an application must be signed by either the beneficiary or qualified survivor or by the guardian of the estate for the beneficiary or the qualified survivor with approval of the court that created the guardianship; or

(b) With a value of less than ten thousand dollars, except for lump sum payments pursuant to division (D) of section 3307.60 of the Revised Code, an application must be signed by either the beneficiary or qualified survivor, or by an attorney in fact who has authority pursuant to a power of attorney to execute financial transactions with the retirement system on behalf of the beneficiary or qualified survivor.

(D) Absent a court order otherwise specifying or the consent of the guardian of the estate, account or benefit information shall not be provided to persons appointed to serve only as guardians of the person. Such persons may not exercise rights specified by Chapter 3307. of the Revised Code or the Administrative Code on behalf of a minor child.

(E) Where there is no person clearly identified to the retirement system as authorized to make binding financial decisions or where the appointment by a court of a guardian or payee so requires, that person shall obtain an order of the court approving withdrawal, election of rights, selection of a plan of payment except as provided in division (F) of section 3307.60 of the Revised Code, or designation of beneficiaries.